

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

PAUL PHELPS,

Plaintiff,

v.

PEREZ, *et al.*,

Defendants.

Case No. 1:21-cv-01108-JLT-BAM (PC)

ORDER CONSTRUING PLAINTIFF'S  
RESPONSE AS A MOTION FOR  
EXTENSION OF TIME

ORDER GRANTING MOTION FOR  
EXTENSION OF TIME TO SHOW CAUSE  
WHY DEFENDANT BETTES SHOULD NOT  
BE DISMISSED FROM THIS ACTION FOR  
FAILURE TO PROVIDE SUFFICIENT  
INFORMATION TO EFFECTUATE  
SERVICE

(ECF No. 20)

**THIRTY (30) DAY DEADLINE**

Plaintiff Paul Phelps ("Plaintiff") is a pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's first amended complaint against: (1) Defendants Townsend and Bettes for excessive force in violation of the Fourteenth Amendment; (2) Defendant Perez for supervisor liability in violation of the Fourteenth Amendment; and (3) Defendant County of Madera for *Monell* liability in violation of the Fourteenth Amendment.

The U.S. Marshal attempted to serve Defendant Bettes with the information provided, but was informed that Defendant Bettes is no longer employed by the Madera County Department of Corrections and no forwarding address was provided. (ECF No. 18.) Accordingly, on January

21, 2022, the Court issued an order for Plaintiff to show cause why Defendant Bettes should not be dismissed from this action. (ECF No. 19.)

Currently before the Court is Plaintiff's response to the order to show cause, filed February 25, 2022. (ECF No. 20.) Plaintiff states that he was not aware that Defendant Bettes was no longer employed by the Madera County Department of Corrections until he received the Court's order. Plaintiff is attempting to ascertain Defendant Bettes' current known address so Plaintiff may have Defendant Bettes served. Plaintiff therefore requests a thirty-day period to continue his attempts to ascertain Defendant Bettes' current address or place of employment. (*Id.*) The Court construes the response as a motion for extension of time to file a response to the order to show cause.

In light of Plaintiff's continued efforts to ascertain a current address or place of employment for Defendant Bettes, the Court finds it appropriate to extend the deadline for Plaintiff to respond to the order to show cause and to provide sufficient information to identify and locate Defendant Bettes for service of process.

Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff's response to the order to show cause, (ECF No. 20), is construed as a motion for extension of time;
2. Plaintiff's motion for extension of time, (ECF No. 20), is GRANTED;
3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall show cause why Defendant Bettes should not be dismissed from this action; and
4. The failure to respond to this order or the failure to show cause will result in the dismissal of Defendant Bettes from this action.

IT IS SO ORDERED.

Dated: March 1, 2022

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE